

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE ENROLLED ACT No. 357

AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 26-1-9.1-109, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 109. (a) Except as otherwise provided in subsections (c) and (d), IC 26-1-9.1 applies to:

- (1) a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) an agricultural lien;
- (3) a sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) a consignment;
- (5) a security interest arising under IC 26-1-2-401, IC 26-1-2-505, IC 26-1-2-711(3), or IC 26-1-2.1-508(5), as provided in IC 26-1-9.1-110;
- (6) a security interest arising under IC 26-1-4-210 or IC 26-1-5.1-118; and
- (7) a transfer of an interest or a claim in a contractual right of a person to receive commissions or other compensation payable by an insurer (as defined in IC 27-1-2-3).

(b) The application of IC 26-1-9.1 to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which IC 26-1-9.1 does not apply.

(c) IC 26-1-9.1 does not apply to the extent that:

SEA 357 — Concur+



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- (1) a statute, regulation, or treaty of the United States preempts IC 26-1-9.1; or
 - (2) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under IC 26-1-5.1-114.
- (d) IC 26-1-9.1 does not apply to:
- (1) a landlord's lien, other than an agricultural lien;
 - (2) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but IC 26-1-9.1-333 applies with respect to priority of the lien;
 - (3) an assignment of a claim for wages, salary, or other compensation of an employee;
 - (4) a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;
 - (5) an assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;
 - (6) an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;
 - (7) an assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;
 - (8) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than a transfer described in subsection (a)(7), or an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but IC 26-1-9.1-315 and IC 26-1-9.1-322 apply with respect to proceeds and priorities in proceeds;
 - (9) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;
 - (10) a right of recoupment or set-off, but:
 - (A) IC 26-1-9.1-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and
 - (B) IC 26-1-9.1-404 applies with respect to defenses or claims of an account debtor;
 - (11) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:
 - (A) liens on real property in IC 26-1-9.1-203 and IC 26-1-9.1-308;
 - (B) fixtures in IC 26-1-9.1-334;
 - (C) fixture filings in IC 26-1-9.1-501, IC 26-1-9.1-502,

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IC 26-1-9.1-512, IC 26-1-9.1-516, and IC 26-1-9.1-519; and
(D) security agreements covering personal and real property in
IC 26-1-9.1-604;

(12) an assignment of a claim arising in tort, other than a
commercial tort claim, but IC 26-1-9.1-315 and IC 26-1-9.1-322
apply with respect to proceeds and priorities in proceeds;

(13) an assignment of a deposit account in a consumer
transaction, but IC 26-1-9.1-315 and IC 26-1-9.1-322 apply with
respect to proceeds and priorities in proceeds;

(14) the creation, perfection, priority, or enforcement of a security
interest created by the state, another state, or a foreign country, or
a governmental unit of the state, another state or a foreign
country; ~~or~~

(15) a pledge of revenues, other money, or property made under
IC 5-1-14-4;

**(16) a claim or right to receive compensation for injuries or
sickness as described in 26 U.S.C. 104(a)(1) or (a)(2); or**

**(17) a claim or right to receive benefits under a special need
trust as described in 42 U.S.C. 1396p(d)(4).**

SECTION 2. IC 26-1-9.1-304, AS ADDED BY P.L.57-2000,
SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2001]: Sec. 304. (a) The local law of a bank's jurisdiction
governs perfection, the effect of perfection or nonperfection, and the
priority of a security interest in a deposit account maintained with that
bank.

(b) The following rules determine a bank's jurisdiction for purposes
of ~~this part~~: **IC 26-1-9.1-301 through IC 26-1-9.1-342:**

(1) If an agreement between the bank and the debtor governing
the deposit account expressly provides that a particular
jurisdiction is the bank's jurisdiction for purposes of IC 26-1, that
jurisdiction is the bank's jurisdiction.

(2) If subdivision (1) does not apply and an agreement between
the bank and its customer governing the deposit account expressly
provides that the agreement is governed by the law of a particular
jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies, and an
agreement between the bank and its customer governing the
deposit account expressly provides that the deposit account is
maintained at an office in a particular jurisdiction, that
jurisdiction is the bank's jurisdiction.

(4) If none of the preceding subdivisions apply, the bank's
jurisdiction is the jurisdiction in which the office identified in an

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account statement as the office serving the customer's account is located.

(5) If none of the preceding subdivisions apply, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

SECTION 3. IC 26-1-9.1-305, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 305. (a) Except as otherwise provided in subsection (c), the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(2) The local law of the issuer's jurisdiction as specified in IC 26-1-8.1-110(d) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in IC 26-1-8.1-110(e) governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(b) The following rules determine a commodity intermediary's jurisdiction for purposes of ~~this part~~: **IC 26-1-9.1-301 through IC 26-1-9.1-342:**

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of IC 26-1, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If subdivision (1) does not apply, and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither subdivision (1) nor subdivision (2) applies, and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a

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particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(4) If none of the preceding subdivisions apply, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of the preceding subdivisions apply, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) The local law of the jurisdiction in which the debtor is located governs:

- (1) perfection of a security interest in investment property by filing;
- (2) automatic perfection of a security interest in investment property created by a broker or securities intermediary; and
- (3) automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

SECTION 4. IC 26-1-9.1-306, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 306. (a) Subject to subsection (c), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter-of-credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(b) For purposes of ~~this part~~, **IC 26-1-9.1-301 through IC 26-1-9.1-342**, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter-of-credit right as provided in IC 26-1-5.1-116.

(c) This section does not apply to a security interest that is perfected only under IC 26-1-9.1-308(d).

SECTION 5. IC 26-1-9.1-307, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 307. (a) In this section, "place of business" means a place where a debtor conducts its affairs.

(b) Except as otherwise provided in this section, the following rules determine a debtor's location:

- (1) A debtor who is an individual is located at the individual's principal residence.
- (2) A debtor that is an organization and has only one (1) place of business is located at its place of business.



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(3) A debtor that is an organization and has more than one (1) place of business is located at its chief executive office.

(c) Subsection (b) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor is located in the District of Columbia.

(d) A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c).

(e) A registered organization that is organized under the law of a state is located in that state.

(f) Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) in the state that the law of the United States designates, if the law designates a state of location;

(2) in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

(g) A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) notwithstanding:

(1) the suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) the dissolution, winding up, or cancellation of the existence of the registered organization.

(h) The United States is located in the District of Columbia.

(i) A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(j) A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

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(k) This section applies only for purposes of ~~this part~~.
IC 26-1-9.1-301 through IC 26-1-9.1-342.

SECTION 6. IC 26-1-9.1-317, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 317. (a) ~~An unperfected~~ A security interest or agricultural lien is subordinate to the rights of:

- (1) a person entitled to priority under IC 26-1-9.1-322; and
- (2) **except as provided in subsection (e)**, a person that becomes a lien creditor before the earlier of the time:
 - (A) the security interest or agricultural lien is perfected; or
 - (B) one (1) of the conditions specified in IC 26-1-9.1-203(b)(3) is met;
 and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in IC 26-1-9.1-320 and IC 26-1-9.1-321, if a person files a financing statement with respect to a purchase-money security interest before or within twenty (20) days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor that arise between the time the security interest attaches and the time of filing.

SECTION 7. IC 26-1-9.1-319, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 319. (a) Except as otherwise provided in subsection (b), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee has rights and title to the goods identical to those the consignor had or had power to

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transfer.

(b) For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under ~~this part~~, **IC 26-1-9.1-301 through IC 26-1-9.1-342**, a perfected security interest held by the consignor would have priority over the rights of the creditor.

SECTION 8. IC 26-1-9.1-322, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 322. (a) Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(1) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(2) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(3) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(b) For the purposes of subsection (a)(1):

(1) the time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(2) the time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(c) Except as otherwise provided in subsection (f), a security interest in collateral which qualifies for priority over a conflicting security interest under IC 26-1-9.1-327, IC 26-1-9.1-328, IC 26-1-9.1-329, IC 26-1-9.1-330, or IC 26-1-9.1-331 also has priority over a conflicting security interest in:

(1) any supporting obligation for the collateral; and

(2) proceeds of the collateral if:

(A) the security interest in proceeds is perfected;

(B) the proceeds are cash proceeds or of the same type as the

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collateral; and

(C) in the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) Subject to subsection (e) and except as otherwise provided in subsection (f), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter-of-credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) Subsection (d) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter-of-credit rights.

(f) Subsections (a) through (e) are subject to:

(1) subsection (g) and ~~the other provisions of this part;~~
IC 26-1-9.1-301 through IC 26-1-9.1-342;

(2) IC 26-1-4-210 with respect to a security interest of a collecting bank;

(3) IC 26-1-5.1-118 with respect to a security interest of an issuer or nominated person; and

(4) IC 26-1-9.1-110 with respect to a security interest arising under IC 26-1-2 or IC 26-1-2.1.

(g) A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

SECTION 9. IC 26-1-9.1-335, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 335. (a) A security interest may be created in an accession and continues in collateral that becomes an accession.

(b) If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) Except as otherwise provided in subsection (d), the other provisions of IC 26-1-9.1-301 through IC 26-1-9.1-342 determine the priority of a security interest in an accession.

(d) A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate-of-title statute under IC 26-1-9.1-311(b).

(e) After default, subject to ~~subsection (f);~~ **IC 26-1-9.1-601 through IC 26-1-9.1-628**, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) A secured party that removes an accession from other goods



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under subsection (e) shall promptly reimburse any holder of a security interest or other lien on, or owner, of the whole or the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

SECTION 10. IC 26-1-9.1-408, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 408. (a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

- (1) would impair the creation, attachment, or perfection of a security interest; or
- (2) provides that the assignment, transfer, creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) A rule of law, statute, or regulation, which prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

- (1) would impair the creation, attachment, or perfection of a security interest; or
- (2) provides that the assignment, transfer, creation, attachment, or



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perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than IC 26-1-9.1 but is ineffective under subsection (a) or (c), the ~~assignment, transfer~~, creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

- (1) is not enforceable against the person obligated on the promissory note or the account debtor;
- (2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;
- (3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;
- (4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;
- (5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and
- (6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(e) This section prevails over any inconsistent provision in statute, administrative rule, or regulation.

SECTION 11. IC 26-1-9.1-501, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 501. (a) Except as otherwise provided in subsections (b), ~~and~~ (c), ~~and~~ (d), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

SEA 357 — Concur+



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(1) the office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut; or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures; or

(2) the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

(c) Before July 1, 2002, the requirements for perfection of an agricultural lien are as prescribed in the statute establishing the agricultural lien.

(d) Before July 1, 2002, the office in which to file a financing statement to perfect a security interest or agricultural lien in

(1) equipment used in a farming operation,

(2) a farm product, or

(3) an account or a general intangible arising from or relating to the sale of a farm product by a farmer

is: the office of county recorder in the county of the debtor's location; as determined under IC 26-1-9.1-307:

(1) the office of the county recorder in the county of the debtor's principal residence, if the debtor is an individual with the debtor's principal residence in Indiana;

(2) the office of the county recorder in the county of the debtor's place of business, if the debtor is an organization with one (1) place of business in Indiana;

(3) the office of the county recorder in the county of the debtor's chief executive office, if the debtor is an organization with two (2) or more places of business in Indiana and the debtor's chief executive office is in Indiana; and

(4) the office of the county recorder in the county in which the collateral is located, for equipment used in a farming operation or farm product, or the office of the secretary of state, for an account or a general intangible arising from or relating to the sale of a farm product by a farmer, in all other cases.

(e) A financing statement filed under subsection (c) (d) is

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effective for five (5) years after the date the financing statement is filed.

~~(e)~~ (f) After June 30, 2001, and before July 1, 2002, a financing statement filed under subsection ~~(e)~~ (d) may be amended only by filing an amendment in the same office of county recorder as the office in which the financing statement being amended was filed.

~~(f)~~ (g) After June 30, 2002, a financing statement filed under subsection ~~(e)~~ (d) may be amended only if a replacement financing statement is filed in the office of the secretary of state. The replacement financing statement must:

(1) satisfy the requirements of IC 26-1-9.1 for an initial financing statement;

(2) identify the earlier financing statement filed under subsection ~~(e)~~ (d) by:

(A) indicating the office in which the earlier financing statement was filed; and

(B) providing the dates of filing and file numbers, if any, of:

(i) the earlier financing statement filed under subsection ~~(e)~~ (d); and

(ii) the most recent amendment filed with respect to the financing statement filed under subsection ~~(e)~~ (d); and

(3) indicate that the earlier financing statement filed under subsection ~~(e)~~ (d) remains effective.

~~(g)~~ (h) The filing of a replacement financing statement under subsection ~~(f)~~ (g) is effective as a continuation statement of the earlier financing statement filed under subsection ~~(e)~~ (d) if it is filed:

(1) after June 30, 2002; and

(2) before the lapse of the earlier financing statement filed under subsection ~~(e)~~ (d).

The filing of a replacement financing statement under subsection ~~(f)~~ (g) continues the effectiveness of the earlier financing statement filed under subsection ~~(e)~~ (d) for five (5) years after the date the replacement financing statement is filed.

~~(h)~~ (i) After June 30, 2002, a financing statement filed under subsection ~~(e)~~ (d) may be terminated: ~~only if:~~

(1) ~~a replacement financing statement is filed under subsection (f); and by filing a termination statement in the office in which the initial financing statement has been filed if no replacement financing statement has been filed under subsection (g); or~~

(2) ~~a termination statement has been filed that satisfies IC 26-1-9.1-513: by filing a termination statement in the office of the secretary of state if a replacement financing statement~~

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has been filed under subsection (g).

(j) After June 30, 2002, a financing statement filed under subsection ~~(e)~~ **(d)** may be assigned only if:

- (1) a replacement financing statement is filed under subsection ~~(f)~~; **(g)**; and
- (2) an assignment of record is filed that satisfies IC 26-1-9.1-514.

(k) After June 30, 2002, a financing statement filed under subsection (c) may be amended (for purposes other than continuation, termination, or assignment) only if:

- (1) a replacement financing statement is filed under subsection ~~(f)~~; **(g)**; and
- (2) an amendment is filed that satisfies IC 26-1-9.1-512.

SECTION 12. IC 26-1-9.1-502, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 502. (a) Subject to subsection (b), a financing statement is sufficient only if it:

- (1) provides the name of the debtor;
- (2) provides the name of the secured party or a representative of the secured party; **and**
- (3) indicates the collateral covered by the financing statement. **and**
- ~~(4) is authenticated by the debtor, if the financing statement is an initial financing statement.~~

(b) Except as otherwise provided in IC 26-1-9.1-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

- (1) indicate that it covers this type of collateral;
- (2) indicate that it is to be filed in the real property records;
- (3) provide a description of the real property to which the collateral is related that is sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and
- (4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

- (1) the record indicates the goods or accounts that it covers;
- (2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral

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or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(4) the record is recorded.

(d) A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

(e) To the extent that IC 36-2-11-15 applies to require the identification of the preparer of a financing statement, the failure of the financing statement to identify the preparer does not affect the sufficiency of the financing statement.

(f) This subsection does not apply to a financing statement described in IC 26-1-9.1-706. Not later than thirty (30) days after the date the financing statement is filed, the secured party that files the financing statement shall furnish a copy of the financing statement to the debtor. The secured party has the burden of establishing compliance with this subsection. The failure of the secured party to comply with this subsection does not affect the sufficiency or effectiveness of the financing statement. A person who fails to comply with this subsection is subject to IC 26-1-9.1-625.

SECTION 13. IC 26-1-9.1-506, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 506. (a) A financing statement substantially satisfying the requirements of IC 26-1-9.1-501 through IC 26-1-9.1-527 is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) Except as otherwise provided in subsection (c), a financing statement that ~~fails to be authenticated by the debtor or~~ fails sufficiently to provide the name of the debtor in accordance with IC 26-1-9.1-503(a) is seriously misleading.

(c) If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails to sufficiently provide the name of the debtor in accordance with IC 26-1-9.1-503(a), the name provided does not make the financing statement seriously misleading.

(d) For purposes of IC 26-1-9.1-508(b), the "debtor's correct name" in subsection (c) means the correct name of the new debtor.

SECTION 14. IC 26-1-9.1-509, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 509. (a) A person may file an initial financing

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statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) ~~either:~~

~~(A)~~ the debtor authorizes the filing in an authenticated record or under subsection (b) or (c); or

~~(B)~~ (2) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien. ~~and~~

(2) ~~the initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement, is authenticated by the debtors covered by the financing statement.~~

(b) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) the collateral described in the security agreement; and

(2) property that becomes collateral under IC 26-1-9.1-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under IC 26-1-9.1-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under ~~IC 26-1-9.1-315(a)(1).~~ **IC 26-9.1-315(a)(2).**

(d) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) the secured party of record authorizes the filing; or

(2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) If there is more than one (1) secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d).

SECTION 15. IC 26-1-9.1-523, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 523. (a) If a person that files a written record requests an acknowledgment of the filing, the filing office shall send

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to the person an image of the record showing the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) note upon the copy the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1) and the date and time of the filing of the record; and

(2) send the copy to the person.

(b) If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) the information in the record;

(2) the number assigned to the record pursuant to IC 26-1-9.1-519(a)(1); and

(3) the date and time of the filing of the record.

(c) The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) whether there is on file on a date and time specified by the filing office, but not a date earlier than three (3) business days before the filing office receives the request, any financing statement that:

(A) designates a particular debtor or, if the request so states, designates a particular debtor at the address specified in the request;

(B) has not lapsed under IC 26-1-9.1-515 with respect to all secured parties of record; and

(C) if the request so states, has lapsed under IC 26-1-9.1-515 and a record of which is maintained by the filing office under IC 26-1-9.1-522(a);

(2) the date and time of filing of each financing statement; and

(3) the information provided in each financing statement.

(d) In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(e) The filing office shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing-office rule, but not later than two (2) business days after the filing office receives the request.

(f) At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under ~~this part~~, **IC 26-1-9.1-501 through IC 26-1-9.1-527**, in

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every medium from time to time available to the filing office.

SECTION 16. IC 26-1-9.1-525, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 525. (a) Except as otherwise provided in subsection (e), the fee for filing and indexing a record under ~~this part~~, **IC 26-1-9.1-501 through IC 26-1-9.1-527**, other than an initial financing statement of the kind described in IC 26-1-9.1-502(c), is:

- (1) four dollars (\$4) if the record is communicated in writing and consists of one (1) or two (2) pages;
- (2) eight dollars (\$8) if the record is communicated in writing and consists of more than two (2) pages; and
- (3) four dollars (\$4) if the record is communicated by another medium authorized by filing-office rule.

(b) Except as otherwise provided in subsection (e), the fee for filing and indexing an initial financing statement of the kind described in IC 26-1-9.1-502(c) is the amount specified in subsection (c), if applicable, plus:

- (1) eight dollars (\$8) if the financing statement indicates that it is filed in connection with a public-finance transaction; and
- (2) eight dollars (\$8) if the financing statement indicates that it is filed in connection with a manufactured-home transaction.

(c) Except as otherwise provided in subsection (e), if a record is communicated in writing, the fee for each name more than two (2) required to be indexed is one dollar (\$1).

(d) The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is:

- (1) one dollar (\$1) if the request is communicated in writing; and
- (2) one dollar (\$1) if the request is communicated by another medium authorized by filing-office rule.

(e) This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under IC 26-1-9.1-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

SECTION 17. IC 26-1-9.1-526, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 526. (a) The secretary of state shall adopt and publish rules to implement IC 26-1-9.1. The filing-office rules must be consistent with IC 26-1-9.1.

(b) To keep the filing-office rules and practices of the filing office

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in harmony with the rules and practices of filing offices in other jurisdictions that enact substantially ~~this part, IC 26-1-9.1-501 through IC 26-1-9.1-527~~, and to keep the technology used by the filing office compatible with the technology used by filing offices in other jurisdictions that enact substantially ~~this part, IC 26-1-9.1-501 through IC 26-1-9.1-527~~, the secretary of state, so far as is consistent with the purposes, policies, and provisions of IC 26-1-9.1, in adopting, amending, and repealing filing-office rules, shall:

- (1) consult with filing offices in other jurisdictions that enact substantially ~~this part, IC 26-1-9.1-501 through IC 26-1-9.1-527~~;
- (2) consult the most recent version of the Model Rules promulgated by the International Association of Corporate Administrators or any successor organization; and
- (3) take into consideration the rules and practices of, and the technology used by, filing offices in other jurisdictions that enact substantially ~~this part, IC 26-1-9.1-501 through IC 26-1-9.1-527~~.

SECTION 18. IC 26-1-9.1-625, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 625. (a) If it is established that a secured party is not proceeding in accordance with IC 26-1-9.1, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with IC 26-1-9.1. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) Except as otherwise provided in IC 26-1-9.1-628:

- (1) a person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and
- (2) if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with IC 26-1-9.1-601 through IC 26-1-9.1-628 may recover for that failure in any event an amount not less than the credit service charge plus ten percent (10%) of the principal amount of the obligation or the time-price differential plus ten percent (10%) of the cash price.

(d) A debtor whose deficiency is eliminated under IC 26-1-9.1-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under

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IC 26-1-9.1-626 may not otherwise recover under subsection (b) for noncompliance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance.

(e) In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover five hundred dollars (\$500) in each case from a person that:

- (1) fails to comply with IC 26-1-9.1-208;
- (2) fails to comply with IC 26-1-9.1-209;
- (3) files a record that the person is not entitled to file under IC 26-1-9.1-509(a);
- (4) fails to cause the secured party of record to file or send a termination statement as required by IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c);
- (5) fails to comply with IC 26-1-9.1-616(b)(1) and whose failure is part of a pattern or consistent with a practice, of noncompliance; ~~or~~
- (6) fails to comply with IC 26-1-9.1-616(b)(2); **or**
- (7) fails to comply with IC 26-1-9.1-502(f).**

(f) A debtor or consumer obligor may recover damages under subsection (b) and, in addition, five hundred dollars (\$500) in each case from a person that, without reasonable cause, fails to comply with a request under IC 26-1-9.1-210. A recipient of a request under IC 26-1-9.1-210 that never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) If a secured party fails to comply with a request regarding a list of collateral or a statement of account under IC 26-1-9.1-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

SECTION 19. IC 26-1-9.1-626, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 626. In an action arising from a transaction in which the amount of a deficiency or surplus is in issue, the following rules apply:

- (1) A secured party need not prove compliance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's

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compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with ~~this part~~. **IC 26-1-9.1-601 through IC 26-1-9.1-628.**

(3) Except as otherwise provided in IC 26-1-9.1-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorney's fees exceeds the greater of:

(A) the proceeds of the collection, enforcement, disposition, or acceptance; or

(B) the amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of IC 26-1-9.1-601 through IC 26-1-9.1-628 relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of subdivision (3)(B), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorney's fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under IC 26-1-9.1-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

SECTION 20. IC 26-1-9.1-705, AS ADDED BY P.L.57-2000, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 705. (a) If action, other than the filing of a financing statement, is taken before IC 26-1-9.1 takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before IC 26-1-9.1 takes effect, the action is effective to perfect a security interest that attaches under IC 26-1-9.1 within one (1) year after IC 26-1-9.1 takes effect. An attached security interest becomes unperfected one (1) year after IC 26-1-9.1 takes effect unless the security interest becomes a perfected security interest under

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IC 26-1-9.1 before the expiration of that period.

(b) The filing of a financing statement before IC 26-1-9.1 takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under IC 26-1-9.1.

(c) IC 26-1-9.1 does not render ineffective an effective financing statement that is filed before IC 26-1-9.1 takes effect and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in IC 26-1-9-103, before its repeal. However, except as otherwise provided in subsections (d) and (e) and IC 26-1-9.1-706, the financing statement ceases to be effective at the earlier of:

- (1) the time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or
- (2) June 30, 2006.

(d) The filing of a continuation statement after IC 26-1-9.1 takes effect does not continue the effectiveness of the financing statement filed before IC 26-1-9.1 takes effect. However, upon the timely filing of a continuation statement after IC 26-1-9.1 takes effect and in accordance with the law of the jurisdiction governing perfection as provided in ~~subsection (c)~~, **IC 26-1-9.1-301 through IC 26-1-9.1-342**, the effectiveness of a financing statement filed in the same office in that jurisdiction before IC 26-1-9.1 takes effect continues for the period provided by the law of that jurisdiction.

(e) Subsection (c)(2) applies to a financing statement that is filed against a transmitting utility before IC 26-1-9.1 takes effect and satisfied the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in IC 26-1-9-103, before its repeal, only to the extent that ~~subsection (c)~~ **provides IC 26-1-9.1-301 through IC 26-1-9.1-342 provide** that the law of a jurisdiction other than jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) A financing statement that includes a financing statement filed before IC 26-1-9.1 takes effect and a continuation statement filed after IC 26-1-9.1 takes effect is effective only to the extent that it satisfies the requirements of ~~subsection (e)~~ **IC 26-1-9.1-501 through IC 26-1-9.1-527** for an initial financing statement.

SECTION 21. IC 32-7-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. (a) In all cases where a tenant agrees to pay as rent a part of the crop raised on the leased premises, or rent in kind, or a cash rent, the landlord may have

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a lien on the crop raised under such contract, for the payment of such rent, which lien, if the tenant refuses or neglects to pay or deliver to the landlord such rent when due, may be enforced by sale of such crop in the same manner the lien of a chattel mortgage containing a power to sell.

(b) Any landlord desiring to acquire a lien on the crop raised under such contract, on such leased premises, shall file in the ~~recorder's office of the county in which such leased premises is located~~, **proper place specified in IC 26-1-9.1-501** at any time thirty (30) days prior to the maturity of such crop, and during the year in which such crop is grown, **a financing statement giving** notice of his intention to hold a lien upon such crop for the amount of such rent, specifically setting forth the amount claimed and giving a substantial description of the lands on which such crop is being grown sufficiently precise to identify such lands.

~~(c) The recorder shall record the notice, when presented, in the miscellaneous record book, for which he shall receive fees in accordance with IC 36-2-7-10.~~

~~(d)~~ (c) All liens so created shall relate to the time of ~~recording~~ **filing** and shall have priority over all liens suffered or created thereafter. However, this section does not prohibit the tenant, after notice in writing to the landlord or his agent, from removing from such leased premises his own part of said growing crop, and no more than such part, and from also disposing of the same whenever the rent is to be paid in part of the crop raised, and in other cases he may remove not more than one-half (1/2) of the crop growing or matured.

SECTION 22. IC 32-8-33-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 1. The owner or operator of any machine or tools used in threshing or hulling grain or seeds or in the plowing, disking or cultivating of land for the production of crops or in the combining, picking, baling of crops shall have and hold a lien upon such grain or seed threshed or hulled with such machine or upon the crops produced or prepared for market or storage by such plowing, disking, cultivating, combining, baling or picking to secure payment to him by the owner of the crops produced or partially produced by such service as may be agreed upon, and if no charges are agreed upon, then for such charges as may be reasonable for such work. Such owner or operator of such machine shall file in the ~~recorder's office of the county where such work is done~~ **proper place specified in IC 26-1-9.1-501** **a financing statement giving** notice of such lien, which notice shall designate the name of the person for whom such work was done, the amount due for such service, and the

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particular crops covered by such lien, the place where such crops are located, together with the date on which said work was done, which notice shall be filed within thirty (30) days after the completion of such work, where such work was plowing, disking or cultivating and within ten (10) days after the completion of such work where such work was combining, baling or picking.

In the event the party for whom said work was done desires to sell or deliver the crops, such party shall notify such consignee or purchaser that the account for service of such machine has not been paid, and the lien herein given on said crops shall shift from said crops to the purchase-price thereof in the hands of the purchaser or consignee above specified.

In the event said crops are sold or consigned with the consent and knowledge of the party entitled to a lien thereon, such lien shall not attach to such crops or to the purchase-price thereof unless said party entitled to said lien shall personally notify said purchaser of said lien, Provided, That said sale is made within the ten (10) day period immediately following the date of the performance of such work. This lien may be enforced as other liens are enforced.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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